

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Miguel Ramirez,	)	C/A No. 0:13-2458-RMG-PJG
	)	
Petitioner,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Warden, <i>Kershaw Correctional Institution</i> ,	)	
	)	
Respondent.	)	
	)	

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The petitioner, Miguel Ramirez (“Ramirez”), a self-represented state prisoner, filed this action pursuant to 28 U.S.C. § 2254. This matter is before the court pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) DSC on Ramirez’s motion for an entry of default. (ECF No. 34.)

Ramirez appears argues that an entry of default is appropriate because the respondent did not timely file an answer. Ramirez is in error. First, default judgments are generally not available in habeas actions. See Bermudez v. Reid, 733 F.2d 18, 21 (2d Cir. 1984) (reasoning that “were district courts to enter default judgments without reaching the merits of the claim, it would be not the defaulting party but the public at large that would be made to suffer”); see also Gordon v. Duran, 895 F.2d 610, 612 (9th Cir. 1990) (“The failure to respond to claims in a petition for habeas corpus does not entitle the petitioner to a default judgment.”); Aziz v. Leferve, 830 F.2d 184, 187 (11th Cir. 1987) (noting that “a default judgment is not contemplated in habeas corpus cases”); Allen v. Perini, 424 F.2d 134, 138 (6th Cir. 1970) (“Rule 55(a) has no application in habeas corpus cases.”); Garland v. Warden, C/A No. 4:08-1668-JFA-TER, 2008 WL 4834597 (D.S.C. 2008). Moreover, the court observes that the respondent requested and was granted three extensions of time to file his return,

and that the respondent timely filed his return within the time period granted by the court's order.

(See ECF Nos. 25, 26, 29, 30, 37, & 38.) It is therefore

**ORDERED** that Ramirez's motion for an entry of judgment (ECF No. 34) is denied.

**IT IS SO ORDERED.**



Paige J. Gossett

UNITED STATES MAGISTRATE JUDGE

August 8, 2014  
Columbia, South Carolina